

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-22 are pending, with Claims 1, 5, 7, 10, 13, 15, 17 and 21 amended by the present amendment.

In the Official Action, Claims 1-4, 6-11, and 14-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by Ono et al. (U.S. Patent No. 6,496,930, hereinafter “Ono”); and Claims 5, 12-13, and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ono in view of Tanaka et al. (U.S. Patent No. 6,208,376, hereinafter “Tanaka”).

Applicants acknowledge with appreciation the personal interview between the Examiner, the Examiner’s supervisor and Applicants’ representative on July 26, 2007. During the interview, the present amendment (less the amendment to Claim 5) was discussed. The Examiner’s supervisor indicated that Applicants’ proposed claims and remarks appeared to distinguish over the applied references, but that further search and/or consideration was required. In particular, the Examiner’s supervisor indicated that the combination of Ono and Tanaka used to reject Claim 5 appeared to be unreasonable. Indeed, the Examiner called Applicants’ representative on July 31, 2007 to report that he now believed that Claim 5 distinguished over the applied references, but that further search was required.

Claims 1, 7, 10, 15, and 17 are amended to recite Applicants’ invention in varying language. Support for this amendment is found in Applicants’ originally filed specification. Furthermore, in view of the Examiners’ comments Claim 5 is amended into independent form. Claims 13 and 21 are similarly amended into independent form. No new matter is added.

Briefly recapitulating, Claim 1 is directed to:

A mobile communication terminal device capable of communicating via a plurality of communication link security levels and configured to communicate with a remote device via a wireless connection, the remote device configured to operate at a preset communication link security level, said preset communication link security level being one of the plurality of communication link security levels, comprising:

a detection unit configured to detect which of the plurality of communication link security levels is in use at the remote device as said preset communication link security level; and

an announcing unit configured to announce said detected communication link security level, each of said plurality of communication security link levels corresponding to a strength of ciphering.

Ono describes a message receiving apparatus which can specify whether to encrypt/digitally sign a message and which encryption/digital signature method should be used, based on a user attribute of the message transmitting apparatus.<sup>1</sup> Ono describes a client device and server device which include an encryption/indication controlling unit 21 and 41, respectively. Each encryption/communication controlling unit includes a transmission controlling unit for transmitting communications text generated from a plain text input along with a reception control unit for generating plain text received by the device.

In Ono, a client apparatus 2 transmits an information request, as well as user attribute information, to the server. The server analyzes the information request data and the user attribute information and then provides a "message input form creation document" to the client. Included within the message input form creation document is an encryption variable to be used by the client device to determine whether or not encryption and/or a digital signature is required for further communications with the server.<sup>2</sup> If, however, the message input form creation document does not include an encryption variable, the client determines that neither encryption nor digital signatures are required.

To achieve this capability, a public key 351 and a secret key 352 are shared by the transmission controlling unit and the reception controlling unit. When transmitting data from

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<sup>1</sup> Ono column 3, lines 17-21.

<sup>2</sup> Ono column 12, lines 17-40.

the client to the server, the client plain text receiving unit sends the plain text to a plain text analyzing unit 213 which judges whether to encrypt/digitally sign the plain text 301 based on the variable provided with the message input form creation document.<sup>3</sup>

Upon judging that encryption/signatures are required, the plain text analyzing unit 213 sends the plain text to the encrypting/signature creating unit 214 which accordingly encrypts or digitally signs the received plain text using the public key or the secret key. On the other hand, when it is determined that neither encryption nor digital signatures are required, the plain text analyzing unit 213 sends the plain text directly to the communications text transmitting unit.<sup>4</sup>

Upon receipt of the information, the server determines whether or not the data from the client is encrypted and/or digitally signed, and performs an inverse decryption process.<sup>5</sup> In the data communications between the client and server, extension tags are defined in advance for specifying an encryption variable. The encryption variable is used to specify conversion type (i.e. one of a plurality of encryption methods and/or one of a plurality of digital signature methods) to be used by the client apparatus.<sup>6</sup> Examples of client established encryption variables are shown in Figure 6.<sup>7</sup>

Thus, in Ono, the server instructs the client whether or not to use an encryption key, and which encryption key to use. The server then detects whether or not the instructed encryption key has actually been used by the client. However, Ono does not disclose or suggest Applicants' claimed detection unit configured to detect which of the plurality of communication link security levels is in use at the remote device *as said preset communication link security level*, as recited in Applicants' amended Claim 1. That is, in

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<sup>3</sup> Ono column 8, lines 36-64.

<sup>4</sup> Ono column 8, line 65 through column 9, line 8.

<sup>5</sup> Ono column 11, lines 24-37.

<sup>6</sup> Ono column 11, lines 45-54.

<sup>7</sup> Ono column 11, line 58 through column 12, line 12.

Applicants' claimed invention, the remote device is capable of operating at a single, preset security level (corresponding to a strength of a cipher), while the mobile terminal is capable of operating at plural security levels. In Applicants' claimed invention, the mobile interrogates the remote to determine the predetermined security level, and then permits or denies communications with the remote accordingly. Ono does not disclose the communication security level processing features recited in amended Claim 1. Similarly, Ono does not disclose the communication security level processing features recited independent Claims 7, 10, 15, and 17.

MPEP § 2131 notes that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See also MPEP § 2131.02. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Because Ono does not disclose or suggest all of the features recited in Claims 1, 7, 10, 15, and 17, Ono does not anticipate the invention recited in Claims 1, 7, 10, 15, and 17, and all claims depending therefrom.

Regarding Claim 5, 12-13, and 21, Applicants have considered Tanaka and submit that Tanaka does cure the deficiencies of Ono. Tanaka describes a camera control device where, if a video display area in use is selected, a user is urged to select either continue or stop.<sup>8</sup> Tanaka does not disclose or suggest any processing based on communication security levels, let alone the features recited in Applicants' independent claims. Indeed, as acknowledged by the Examiner's supervisor during the interview of July 26, 2007, the camera control device of Tanaka is not analogous to Applicants' claimed invention. Thus,

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<sup>8</sup> Tanaka column 6, lines 6-17.

Applicants submit that the outstanding rejection of Claim 5, 12-13, and 21 under 35 U.S.C. § 103(a) is improperly based upon hindsight reasoning.

Indeed, MPEP 2141.01(a) I notes that to rely on a reference under 35 U.S.C. 103, the reference must be analogous prior art. For the electrical arts, MPEP 2141.01(a) V refers to *Wang Laboratories, Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993) (Patent claims were directed to single in-line memory modules (SIMMs) for installation on a printed circuit motherboard for use in personal computers. Reference to a SIMM for an industrial controller was not necessarily in the same field of endeavor as the claimed subject matter merely because it related to memories. ***Reference was found to be in a different field of endeavor because it involved memory circuits in which modules of varying sizes may be added or replaced, whereas the claimed invention involved compact modular memories.*** Furthermore, since memory modules of the claims at issue were intended for personal computers and used dynamic random-access-memories, whereas reference SIMM was developed for use in large industrial machine controllers and only taught the use of static random- access-memories or read-only-memories, the finding that the reference was nonanalogous was supported by substantial evidence.).

MPEP 2141.01(a) V also refers to *Medtronic, Inc. v. Cardiac Pacemakers*, 721 F.2d 1563, 220 USPQ 97 (Fed. Cir. 1983) (Patent claims were drawn to a cardiac pacemaker which comprised, among other components, a runaway inhibitor means for preventing a pacemaker malfunction from causing pulses to be applied at too high a frequency rate. Two references disclosed circuits used in high power, high frequency devices which inhibited the runaway of pulses from a pulse source. The court held that one of ordinary skill in the pacemaker designer art faced with a rate-limiting problem would look to the solutions of others faced with rate limiting problems, and therefore the references were in an analogous art.).

Applicants submit that the present matter aligns with *Wang* and not *Medtronic*. That is, Tanaka is directed to camera control, while the present invention is directed to mobile communications. Applicants submit that one skilled in the art of mobile communications would not look to camera control such as Tanaka when addressing questions of continuing or discontinuing communication based on a detected communication link security level. Thus, Applicants submit that Claims 5, 12-13, and 21 are in condition for allowance.

Accordingly, in view of the present amendment and in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

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